



ENVIRONMENTAL PROTECTION AGENCY

[EPA-R01-RCRA-2022-0802; 10223-01-R1]

Lead-Based Paint Renovation, Repair and Painting Activities in Target Housing and Child-Occupied Facilities; State of Vermont; Notice of Self-Certification

Program Authorization

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces that on October 1, 2022, the State of Vermont was deemed authorized under section 404(a) of the Toxic Substances Control Act (TSCA) to administer and enforce requirements for the lead-based paint pre-renovation education and renovation, repair and painting (RRP) program. This document also announces that the Environmental Protection Agency (EPA) is seeking comment during a 45-day public comment period, and it is providing an opportunity to request a public hearing within the first 15 days of this comment period on whether Vermont's program is at least as protective as the federal program and provides for adequate enforcement. This document also announces that the authorization of the Vermont pre-renovation education and renovation, repair and painting program, which was deemed authorized by regulation and statute, will continue without further notice unless the EPA, based on its own review and/or comments received during the comment period, disapproves the Vermont program application.

DATES: Comments must be received on or before *[Insert date 45 days after the date of publication in the Federal Register]*. In addition, a public hearing request must be submitted on or before *[Insert date 15 days after the date of publication in the Federal Register]*.

ADDRESSES: You may submit comments, identified by Docket ID No. **EPA-R01-RCRA-2022-0802**, at <https://www.regulations.gov/>. Follow the online instructions for

submitting comments. Once submitted, comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Amanda Triebwasser, RCRA Corrective Action and TSCA Section; Land, Chemicals, and Redevelopment Division; U.S. EPA Region 1, 5 Post Office Square, Suite 100 (Mail code 07-WI), Boston, MA 02109-3912; telephone number: 617-918-1758; email address: triebwasser.amanda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. **EPA-R01-RCRA-2022-0802** at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA’s docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective

comments.

II. General Information

A. What action is the agency taking?

The EPA is announcing that the State of Vermont was deemed authorized under section 404(a) of TSCA, 15 United States Code (U.S.C.) 2684(a) and 40 CFR 745.324(d)(2), to administer and enforce requirements for an RRP program in accordance with section 402(c)(3) of TSCA, 15 U.S.C. 2682(c)(3) on October 1, 2022. The 402(c)(3) program ensures that training providers are accredited to teach renovation classes, that individuals performing renovation activities are properly trained and certified as renovators, that firms are certified as renovation firms, and that specific work practices are followed during renovation activities. Vermont submitted an application under section 404 of TSCA requesting authorization to administer and enforce requirements for an RRP program in accordance with section 402(c)(3) of TSCA. Vermont's application included self-certification that the program is at least as protective of human health and the environment as the federal program and provides for adequate enforcement. Therefore, pursuant to section 404(a) of TSCA and 40 CFR 745.324(d)(2), the Vermont RRP program is deemed authorized as of the date of submission and until such time as the agency disapproves the program application or withdraws program authorization. Pursuant to section 404(b) of TSCA and 40 CFR 745.324(e)(2), the EPA is providing notice, opportunity for public comment and opportunity for a public hearing on whether the state program application and subsequent administrative rule changes are at least as protective as the federal program and provide for adequate enforcement. If a hearing is requested and granted, the EPA will issue a Federal Register notice announcing the date, time, and place of the hearing.

B. What is EPA's authority in taking this action?

On October 28, 1992, the Housing and Community Development Act of 1992, Public

Law 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That act amended TSCA (15 U.S.C. 2601-2695d) by adding Title IV (15 U.S.C. 2681-2692), entitled “Lead Exposure Reduction.” On April 22, 2008, the EPA promulgated the final TSCA section 402(c)(3) regulations governing renovation activities (73 FR 21692). These regulations require that in order to do renovation activities for compensation, renovators must first be properly trained and certified, must be associated with a certified renovation firm, and must follow specific work practice standards, including recordkeeping requirements. The EPA believes that regulation of renovation activities will help to reduce the exposures that cause serious lead poisonings, especially in children under age 6 who are particularly susceptible to the hazards of lead. Under section 404 of TSCA, a state may seek authorization from the EPA to administer and enforce its own RRP program in lieu of the federal program. The regulation governing the authorization of a state program under section 402 of TSCA are codified at 40 CFR Part 745, Subpart Q. States that choose to apply for program authorization must submit a complete application to the appropriate regional EPA office for review. Those applications will be reviewed by the EPA within 180 days of receipt of the complete application. To receive EPA approval, a state must demonstrate that its program is at least as protective of human health and the environment as the federal program, and provides for adequate enforcement, as required by section 404(b) of TSCA. EPA's regulations at 40 CFR Part 745, Subpart Q provide the detailed requirements a state program must meet in order to obtain EPA approval.

A state may choose to certify that its own RRP program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program is at least as protective of human health and the environment as the federal program and provides for adequate enforcement. Upon submission of such a certification letter, the program is deemed authorized pursuant to TSCA section 404(a) and 40 CFR

745.324(d)(2). This authorization is withdrawn, however, if the EPA disapproves the application or withdraws the program authorization.

C. Does this action apply to me?

This action is directed to the public in general, to entities offering Lead Safe Renovation courses, and to firms and individuals engaged in renovation and remodeling activities of pre-1978 housing and child-occupied facilities in the State of Vermont. Individuals and firms falling under the North American Industrial Classification System (NAICS) codes in the table below may be affected by these rules.

NAICS Code	Description
236118	Residential Remodelers
238210	Electrical Contractors and Other Wiring Installation Contractors
238310	Drywall and Insulation Contractors
238220	Plumbing, Heating, and Air-Conditioning Contractors
238320	Painting and Wall Covering Contractors
531110	Lessors of Residential Buildings and Dwellings
531311	Residential Property Managers

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this notice could also be affected. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR**

FURTHER INFORMATION CONTACT.

III. State Program Description Summary

A. Vermont Program Summary

Components of the Vermont RRPM Program

The Vermont program is based on the Vermont Regulations for Lead Control (VRLC) pursuant to the authority conferred Chapter 38 of the Vermont Statutes Annotated.

Chapter 38 was amended in 2018 to provide the Vermont Department of Health with the authority to develop a program to administer and enforce the lead-based paint activities and renovation, repair, painting and maintenance (RRPM) activities. The VRLC, first

promulgated in 2000 and last amended in 2021, provide the framework for RRPM-RRP activities.

Activities and Buildings Covered

The VRLC cover RRPM activities in pre-1978 child-occupied facilities and target housing in Vermont, except zero-bedroom dwellings or dwellings reserved for the exclusive use of elderly or disabled, unless a child under six years of age resides or is expected to reside there.

Unless the area of paint disturbed is less than 1 square foot of interior paint per room and less than 20 square feet of exterior paint, or 1 square foot or less of exterior paint for rental target housing and child-care facilities, and unless the work does not involve window replacement or demolition of painted surface areas, property owners are required to hire a licensed RRPM Firm that uses licensed RRPM Supervisors to conduct RRPM activities.

Childcare operators can perform RRPM activities on their own childcare facilities if they have completed the RRPM Supervisor training and have been granted certification as an Uncompensated Childcare Operator by the Department of Health. Certification as an Uncompensated Childcare Operator has the same requirements as a Licensed Lead-Safe RRPM Firm, although Uncompensated Childcare Operators cannot provide RRPM activities for hire, and cannot provide on-the-job training or supervise RRPM activities.

Certification and Licensing Requirements

Entities can be licensed by the Vermont Department of Health as a Lead-Safe RRPM Firm by applying on the forms provided by the Department, assuring that at least one employee is a Licensed Lead-Safe RRPM Supervisor, and identifying whether they have previously had any lead-related enforcement actions taken against them.

Individuals can apply to the Department of Health for a Lead-Safe RRPM Supervisor license after successfully completing an 8-hour training from a Vermont-accredited

training provider or a training provider accredited by EPA or an EPA RRP authorized state, provided the individual received the Vermont-specific training module and examination.

To be certified by the Department of Health, an Uncompensated Childcare Operator must successfully complete the same training as the Licensed Lead-Safe RRPM Supervisor.

The difference between the Lead-Safe RRPM Supervisor license and the Uncompensated Childcare Operator certification is that the Certified Uncompensated Childcare Operator does not pay a fee and is issued a certificate rather than a license.

Training Course Accreditation Requirements

To obtain accreditation for a lead-based paint training course, including the RRPM Supervisor course, training providers are required to submit detailed information to the Vermont Department of Health, including information about curriculum, teaching methods, equipment, and instructors. Vermont RRPM training requirements include: all work practices required by the EPA to safely handle lead-based paint (plus Vermont-specific elements); a mandatory hands-on component; and a closed-book examination, except for online refresher training courses. The Department will conduct an on-site observation and evaluation of the training course and contents, its instructors, equipment, and facilities or will review a representative video of the course for evaluation to ensure the course meets State criteria. Vermont's statutory authority allows for the revocation, modification or suspension of any permit issued by the Department, including an accreditation.

Information Distribution Requirements

Vermont requires the Lead-Safe RRPM Firm or Certified Uncompensated Childcare Operator to distribute the Renovate Right pamphlet with a Vermont specific addendum to the owner and occupants of the property being renovated, repaired or painted, and parents or guardians of children in childcare facilities, no more than 60 days before RRPM

activities are scheduled to be conducted.

For RRPM activities affecting common areas in target housing or in child occupied facilities, informational signs that describe the general nature and locations of the RRPM activities and the anticipated completion date may be posted rather than provided in writing to affected occupants or parents/guardians. For work in common areas of target housing if the firm notified those affected in writing, the RRPM Firm or Certified Uncompensated Childcare Operator must provide a written notice to all owners and occupants if the scope and timeframe of the RRPM activities change.

Work Practice Standards

RRPM work practice standards are found at VLRC 7.3. All RRPM activities shall be performed by a licensed lead-safe RRPM firm and supervised by a licensed lead-safe RRPM supervisor or by a certified uncompensated child-care operator. Once the RRPM activities begin, the Licensed Lead-Safe RRPM Supervisor or Certified Uncompensated Childcare Operator is responsible for ensuring that the site is secured and proper signage is posted to prevent exposure to occupants, contamination of their belongings and dispersion of lead dust into other areas. Containment generally includes closing windows, sealing doors and ducts, covering floors/carpets and covering furniture left in the room. The RRPM Firm is required to have a Licensed Lead-Safe RRPM Supervisor on site at all times when RRPM work is underway. Once RRPM activities are complete, proper disposal of waste and a thorough cleaning of the area is required. Following cleaning, the Licensed Lead-Safe RRPM Supervisor or Certified Uncompensated Childcare operator is responsible for conducting a visual clearance and cleaning verification. Certain dangerous work practices found at VLRC 5.1.2 are also prohibited.

Record Keeping Requirements

RRPM recordkeeping requirements are found at VLRC 7.4. All licensed Lead-Safe RRPM firms must retain records related to RRPM activities for a period of six years.

Examples of records that shall be retained include: lead inspection reports, proof of pre-renovation education distribution, documentation of compliance with RRPM work practice activities, on-the-job training, and post renovation cleaning verification. If requested, the licensed RRPM firm or Uncompensated Child Care Operator must make all records documenting compliance available to the Department.

The Vermont PRE and RRPM Programs meet or exceed all EPA program elements for protecting the public. Areas where Vermont's RRPM program will exceed EPA

Requirements for protecting the public:

- The RRPM Firm is required to have a Licensed Lead-Safe RRPM Supervisor on site the entire time RRPM activities are being conducted.
- Vermont's definition of RRP-regulated building spaces includes all spaces generally accessible to residents/users/occupants/guests including, but not limited to, hallways, stairways, porches, laundry and recreational rooms, playgrounds, community centers, boundary fences, basements, and sheds. This is more restrictive than the EPA definition.
- Vermont's threshold for what constitutes a minor RRPM activity on the interior (1 square foot per room) is lower than EPA's (6 square feet per room). Further, Vermont lowers the exterior minor RRPM activity threshold for childcare facilities and rental target housing to 1 square foot, as opposed to EPA's 20 square feet.
- Vermont does not allow for the use of test kits to determine lead-free status, but rather requires a licensed lead-based paint risk assessor to determine the presence of lead-based paint.

IV. Federal Overfiling

Section 404(b) of TSCA makes it unlawful for any person to violate or fail or refuse to comply with any requirement of an approved state program. Therefore, EPA reserves the

right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized state program.

V. Withdrawal of Authorization

Pursuant to section 404(c) of TSCA, the EPA Administrator may withdraw authorization of a State or Indian Tribal renovation, repair and painting program, and/or a lead-based paint pre-renovation education program, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations, and other requirements established under the authorization. The procedures U.S. EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

David Cash,
Regional Administrator,
U.S. EPA Region 1.

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